

House Bill 611

By: Representative Allison of the 8th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, so as to provide for the offense of sexual assault against a person under the care or supervision of certain persons; to provide for definitions; to provide for a penalty; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, is amended by revising Code Section 16-6-5.1, relating to sexual assault against persons in custody, detainees, patients in the hospital or other institution, or by practitioners of psychotherapy against patients, as follows:

"16-6-5.1.

(a) As used in this Code section, the term:

(1) 'Actor' means a person accused of sexual assault.

(2) 'Hospital' means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic, and other specialty hospitals.

(3) 'Intimate parts' means the genital area, groin, inner thighs, buttocks, or breasts of a person.

~~(3)~~(4) 'Psychotherapy' means the professional treatment or counseling of a mental or emotional illness, symptom, or condition.

~~(4)~~(5) 'Sexual contact' means any contact between the actor and a person not married to the actor involving the intimate parts of either person for the purpose of sexual gratification of the actor.

(b) A probation or parole officer or other custodian or supervisor of another person referred to in this Code section commits sexual assault when he or she engages in sexual contact with another person who is a probationer or parolee under the supervision of said probation or parole officer or who is in the custody of law or who is enrolled in a school or who is detained in or is a patient in a hospital or other institution and such actor has supervisory or disciplinary authority over such other person. ~~A person convicted of sexual assault shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of sexual assault under this subsection of a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.~~

(c)(1) A person commits sexual assault when such person has supervisory or disciplinary authority over another person and such person engages in sexual contact with that other person who is:

(A) ~~In~~ in the custody of law; ~~or,~~

(B) ~~Detained in or is a patient in a hospital or other institution.~~

(2) A person commits sexual assault when, as an actual or purported practitioner of psychotherapy, he or she engages in sexual contact with another person who the actor knew or should have known is the subject of the actor's actual or purported treatment or counseling, or, if the treatment or counseling relationship was used to facilitate sexual contact between the actor and said person.

(3) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed pursuant to Code Section 31-7-3, relating to long-term care facilities, Code Section 31-7-12, relating to personal care homes, Code Section 31-7-151, relating to home health agencies, or Code Section 31-7-173, relating to hospices, commits sexual assault when such person engages in sexual contact with another person who has been admitted to or is receiving services from such facility, person, or entity.

~~(4) A person convicted of sexual assault under this subsection shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of sexual assault under this subsection of a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.~~ A person commits sexual assault when such person is engaged in or responsible for providing diagnostic services or therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation

services for the rehabilitation of injured, disabled, or sick persons and such person engages in sexual contact with such injured, disabled, or sick person in a hospital or other institution.

~~(3)(d)~~ Consent of the victim shall not be a defense to a prosecution under this subsection Code section.

~~(d)(e) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits sexual assault when such person engages in sexual contact with another person who has been admitted to or is receiving services from such facility, person, or entity. A person convicted of sexual assault pursuant to this subsection shall be punished by imprisonment for not less than ten nor more than 30 years, or a fine of not more than \$5,000.00, or both. Any violation of this subsection shall constitute a separate offense. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2. A person convicted of sexual assault pursuant to this Code section shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of sexual assault under this subsection of a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Multiple violations of this Code section shall constitute separate offenses. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2."~~

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.